

REMARKS

Favorable reconsideration of this application is respectfully requested.

Claims 1 through 16 are pending in the present application. Claims 17 through 25 are canceled by the present amendment.

Applicants appreciate the indication of allowable subject matter of claims 6 to 8 and 13 to 16. These claims have been rewritten to overcome the objections to same. Basically, claims 6 and 13 have been rewritten in independent form. Claims 7 and 8 and 11 to 16 depend from claims 6 and 13, respectively. Thus, applicants respectfully request reconsideration and withdrawal of the objection to the claims, and allowance of these claims.

In the Office Action, claims 1 and 3 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. Des. 216,349 to Bromeisler et al. (hereinafter "the Bromeisler et al. design patent"). Applicants respectfully traverse this rejection on the grounds that the Bromeisler et al. design patent neither expressly nor

inherently describes all of the elements set forth in claims 1 and 3.

Claim 1 provides for an assembly for setting hair. The assembly includes *inter alia*, a lid hingedly mounted to said housing for selectively covering said heatable hair rollers and the lid having at least two sections each individually mounted by a single pivot to said housing.

The Bomeisler et al. design patent is directed to a heater housing design for hair curlers having a two-part cover connected to the housing. In reference to claim 1, the Office Action suggests that the Bromeisler et al. design patent discloses a "lid which includes two sections that are individually hinged to the housing." (page 2)

The Bomeisler et al. design patent does not show a lid capable of covering heatable hair rollers, even assuming selective covering were possible. The lid actually exposes the heatable rollers. The covering of the rollers prevents the heat loss to the rollers in the covered area of the housing and improves efficiency of the device. (page 7, lines 11-14). As such, the Bomeisler et al. design patent does not anticipate claim 1.

Claim 3 depends from claim 1 and provides that the hair setting assembly include *inter alia*, at least two sections that seal along a mid-line running from a first side of said housing to a rear side of said housing.

The Office Action suggests that "upon closure of the lid sections, they abut/seal at a mid-line between opposed sides of the device." (page 2.)

Applicants respectfully disagree. Neither Figs. 2 or 3 of the Bomeisler et al. design patent, show at least two sections that seal along the mid-line of the housing, let alone a mid-line running from a front side of said housing to a rear side of said housing. The seal is significant because it will prevent heat loss and improve efficiency. (page 7, lines 11-14). Instead, the Bomeisler et al. design patent shows a device that closes; however, that does not ensure that the two lids seal as claimed. Further, while the Bomeisler et al. design patent shows a device that closes along the longitudinal axis, it is not along the mid-line of the housing. To seal along the mid-line of the housing is important because it would result in

lower heat dissipation. As such, the Bomeisler et al. design patent does not anticipate claim 3.

In the Office Action, claims 1 and 2 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. Des. 317,215 to Montagnino et al. (hereinafter "the Montagnino et al. design patent (215)").

The Montagnino et al. design patent (215) is directed to a hair setter having two lids sections, each connected to a housing at two pivot connections, one such connection at each end of the housing. The rejection does not address the limitation of claim 1 of "selective covering of said heatable hair rollers." The Montagnino et al. design patent (215) does not show selective covering. The selective covering of each lid prevents the heat loss to the rollers in the covered area. As such, the Montagnino et al. design patent does not anticipate claim 1.

Claim 2 depends from claim 1 and provides that said at least two sections are pivotally connected at opposing ends.

In reference to claim 2, the Office Action suggests that the Montagnino et al. design patent (215) provides for a "hair setter including . . . a lid having opposed hinged lid section (see Figs. 2 and 8), hingedly attached at opposite ends." (page 2)

Applicants respectfully disagree. The Montagnino et al. design patent (215) shows a cover having two pivotally connected lids that are connected to the housing at the same ends, not opposing ends. As such, the Montagnino et al. design patent (215) does not anticipate claim 2.

Claims 1 through 3 and 17 through 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. Des. 323,041 to Montagnino et al. (hereinafter "the Montagnino et al. design patent (041)"). Claims 17 to 23 have been canceled by the present amendment.

The Montagnino et al. design patent (041) is directed to a housing for a hair setter showing two covers pivotally connected to a housing. The Office Action does not address the limitation in claim 1 of "a lid hingedly mounted to said housing for selectively covering said heatable hair rollers."

The Montagnino et al. design patent (041) does not show selective covering. The selective covering of each lid prevents heat loss to the rollers in the covered area. Also, the Montagnino et al. design patent (041) does not show a device capable of covering heatable hair rollers even if selective covering were possible. The selective covering of the rollers prevents the heat loss to the rollers in the covered area of the housing and improves efficiency of the device. (page 7, lines 11-14) As such, the Montagnino et al. design patent (041) does not anticipate claim 1.

Further, the Montagnino et al. design patent (041) does not show a lid capable of covering heatable hair rollers even assuming selective covering were possible. The lid actually exposes the heatable rollers. As discussed above, the covering of the rollers is needed to prevent the heat loss to the rollers in the covered area of the housing and provide improved efficiency of the device. (page 7, lines 11-14) As such, the Montagnino et al. design patent (041) does not anticipate claim 1.

In reference to claim 2, the Office Action suggests that the Montagnino et al. design patent (041) provides for "lid sections . . . hingedly attached at opposed ends."

(page 3)

Applicants respectfully disagree. The Montagnino et al. design patent (041) shows a cover having two pivotally connected lids that are connected to the housing at the same ends, not opposing ends. As such, the Montagnino et al. design patent (041) does not anticipate claim 2.

As discussed above, claim 3, depends from claim 1 and provides that the hair setting assembly include *inter alia*, at least two sections that seal along a mid-line running from a front side of said housing to a rear side of said housing.

Regarding claim 3, the Office Action suggests that the "lid sections . . . abut/seal along a mid-line when in the closed condition." (page 3)

Applicants respectfully disagree. Neither Figs. 5 nor 7 of the Montagnino et al. design patent (041) show lid sections that seal along the mid-line of the housing, let

alone a mid-line running from a front side of said housing to a rear side of said housing. As discussed above, the seal is significant because it will prevent heat loss and improve efficiency. (page 7, lines 11-14). Instead, the Montagnino et al. design patent (041) shows a device that closes along the longitudinal axis of the housing; however, it does not seal the two lids as claimed. Also, the Montagnino et al. design patent does not seal along the mid-line of the housing as set forth in claim 3. As such, the Montagnino et al. design patent (041) does not anticipate claim 3.

Claims 4, 5, 9 through 12, 24 and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Montagnino et al. design patent (041) in view of U.S. Patent No. 3,700,853 to Jensen et al. (hereinafter "the Jensen et al. patent"). Claims 24 and 25 have been canceled by the present amendment.

Claim 4 depends from claim 1 and provides that the hair setting assembly include *inter alia*, each of said at least two sections have one or more channels.

Claim 5 depends from claim 4 and provides that said one or more channels of the hair setting assembly of claim 1 function to collect accumulated condensation from said lid and direct said condensation to said at least one reservoir in said housing.

The Office Action offers that "an enclosure for curlers may include a steaming means and that the underside of a lid of an enclosure for curlers/rollers may include channels (pyramidal shapes 7,8) that direct/channel condensation to the reservoir of the housing/casing, for the purpose of wetting curlers/rollers in the reservoir . . .". (page 4). Further, the Office Action suggests that "it would have been obvious to have provided the lid of the housing of Montagnino et al. with condensation channels and to have provided the housing with a steaming means . . . for the purpose of wetting the curlers/rollers and recirculating moisture within the housing.". (page 4)

Applicants respectfully disagree. There is no motivation to modify the Montagnino et al. design patent (041) by the Jensen et al. patent even if the lid did show at least two sections having one or two channels as claim 4 claims. The Jensen et al. patent provides for a lid having

multiple pyramids to collect condensation in the housing to drop over the curlers. In reference to claim 5, the lid requires one or more channels that function to collect accumulated condensation from the lid to direct the condensation to at least one reservoir in the housing. The Montagnino et al. design patent (041) is concerned, if at all, with removing condensation from the housing, whereas the Jensen et al. patent is concerned with collecting condensation for use in the housing.

For the reasons stated above, the combination of references cited above does not make obvious the claimed invention.

Furthermore, the combination would destroy the function of the primary reference. The Montagnino et al. patent (041) appears to use dry heat to heat the rollers, whereas the Jensen patent uses vaporized liquid that drips from apexes to heat the rollers. One of ordinary skill in the art would not change the primary reference as suggested.

Independent claim 9 provides that the hair setting assembly include *inter alia*, a base, a housing supported on

said base for pivotal movement with respect to the base, and a lid hingedly connected to the housing with said lid being configured to channel accumulated condensation from said lid into a reservoir in said housing.

The Office Action suggests "the bottom of the housing of the Montagnino et al is provided with feet. . . This suggests resting the housing on a supporting surface/base, such as a table or counter such that it would have been obvious from the feet to have rested the housing on such a supporting surface or base." (page 4.) It further suggests that "the housing is capable of being pivoted with respect to such a supporting surface or base." (page 4).

Applicants respectfully disagree. The Montagnino et al. design patent (041) shows a device with a two-part lid and a lower housing. The feet of Figs. 4 and 6 do not suggest the element of the base of claim 9, let alone any pivotal movement of the housing with respect to said base as claimed. The ability of the housing to pivot with respect to the base facilitates access to the rollers and reduces the risk of injury. (page 7) Further, the Jensen et al. patent does nothing to correct this defect.

Also, claim 9 provides "said lid being configured to channel accumulated condensation from said lid into a reservoir in said housing."

As discussed above with respect to claim 4, the Montagnino et al. design patent (041) does not show this element. The Montagnino et al. design patent (041) shows two lid portions having broad spaces on opposite sides of the interior of the handle portion when the device is in a closed position. However, these broad spaces could not be used to "collect accumulated condensation from the lid and direct said condensation to said at least on reservoir in said housing" as claimed. From Figs. 4 and 6 of the Montagnino et al. design patent (041), any condensation could not collect in any reservoir because no such element is shown. Instead, the condensation would fall outside the housing onto the supporting surface.

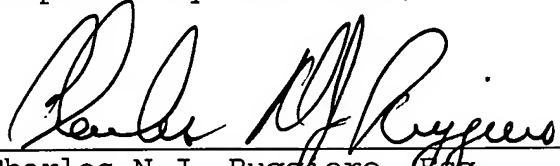
The combination of the Jensen et al. patent and the Montagnino et al. design patent (041) does not correct the defect. For the reasons stated above, the combination of references cited above does not make obvious the claimed invention.

Furthermore, the combination would destroy the function of the primary reference. The Montagnino et al. patent (041) appears to use dry heat to heat the rollers, whereas the Jensen patent uses vaporized liquid that drips from apexes to heat the rollers. As stated above, the Montagnino et al design patent (041) removes water from the housing and Jensen et al. patent does the exact opposite by collecting water in the housing. One of ordinary skill in the art would not change the primary reference as suggested.

Claims 10 to 12 depend from claim 9. The combination of the Montagnino et al design patent (041) and the Jensen et al. patent does not make claims 10, 11 or 12 obvious for at least the reasons set forth above with respect to claim 9 and for the same reasons applicants offer related to claims 2 and 3 above.

In view of the foregoing, Applicants respectfully submit that all claims presented in the application patentably distinguish over the prior art. Accordingly, Applicants respectfully request favorable consideration and that this application be passed on to allowance.

Respectfully submitted,



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